

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:20-CV-101-BO

VINCENT PROCOPIO, individually and as )  
Personal Representative of the Estate of Robert )  
Procopio, Jr., )

Plaintiff, )

v. )

ORDER

SUPER 8 WORLDWIDE, INC., a subsidiary of )  
Wyndham Worldwide; WAKEMED RALEIGH )  
CAMPUS; JEFFREY ABRAMS, M.D.; RODNEY )  
MCCASKILL, M.D; ANDREY BELAYEV, M.D.; )  
CAROLINA DONOR SERVICES, INC.; )  
RALEIGH POLICE DEPARTMENT; DOES 1-10, )  
Inclusive, )

Defendants. )

This matter is before the Court on the Memorandum and Recommendation (M&R) of United States Magistrate Robert B. Jones, Jr. [DE 15]. No objections to the M&R have been filed, and the matter is ripe for review. For the reasons discussed below, the Court adopts the M&R in its entirety.

A district court is required to review de novo those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).


No party has objected to the M&R, and the time for doing so has passed. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the M&R is ADOPTED.

#### CONCLUSION

The M&R of Judge Jones is ADOPTED. [DE 15]. Plaintiff's application to proceed *in forma pauperis* is GRANTED. All claims against defendants Jeffrey Abrams, M.D., Rodney McCaskill, M.D., Andrey Belayev, M.D., WakeMed Raleigh Campus, and Carolina Donor Services, Inc. for medical malpractice, medical battery, organ procurement fraud, violations of the Emergency Medical Treatment and Active Labor Act, challenging the constitutionality of N.C. Gen. Stat. § 90-323, and alleging violations of the Sarbanes-Oxley Act are DISMISSED WITHOUT PREJUDICE. Plaintiff's claim arising pursuant to 42 U.S.C. § 1985(3) is DISMISSED WITHOUT PREJUDICE. Plaintiff's claims alleging negligent homicide, manslaughter, and obstruction of justice are DISMISSED WITH PREJUDICE.

Plaintiff's claims against Super 8 Worldwide, Inc., the Raleigh Police Department, and Does 1-10 for wrongful death, civil conspiracy, violation of Fourth Amendment rights, and intentional infliction of emotional distress are permitted to proceed. The Clerk is DIRECTED to file plaintiff's complaint, to serve a copy of this order on plaintiff, and to include blank summonses with the service of the order. Plaintiff is DIRECTED to file, within fourteen days of the date of entry of this order, completed summonses for Super 8 Worldwide, Inc., the Raleigh Police Department, and Does 1-10.

SO ORDERED, this the 24 day of June, 2021.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE